

**MEMORANDUM**

**TO:** HEALTH AND HUMAN SERVICES TASK FORCE MEMBERS  
**FROM:** CHRISTIE HERRERA, HHS TASK FORCE DIRECTOR  
**RE:** 35-DAY MAILING—HHS TASK FORCE MEETING AT ALEC's 2011 STATES AND NATION POLICY SUMMIT, PHOENIX, AZ  
**DATE:** OCTOBER 27, 2011

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**Overview of ALEC's 2011 States and Nation Policy Summit**

The American Legislative Exchange Council will hold its 2011 States and Nation Policy Summit (SNPS) from November 30-December 2 at the [Westin Kierland Resort & Spa](#) in Scottsdale, Arizona. A SNPS [agenda](#) and [hotel registration](#) page are now online.

[Click here to register for the 2011 States & Nation Policy Summit](#). If you need assistance with online registration, contact Briana Mulder at (202) 742-8507 or [bmulder@alec.org](mailto:bmulder@alec.org). A registration form is also enclosed if you prefer to register by fax.

**Preliminary HHS Agenda at ALEC's 2011 States and Nation Policy Summit**

Below is a tentative agenda of HHS-related activities at ALEC's 2011 States and Nation Policy Summit:

**Wednesday, November 30**

11:30 a.m.-1:15 p.m.

Opening Luncheon (sponsored by Novartis)

3:00-4:15 p.m.

HHS Workshop (topic and panel TBD)

**Thursday, December 1**

2:30-4:00 p.m.

Special Panel Discussion: "What You Can Learn from Arizona's Health Reforms" with U.S. Health Care Freedom Coalition Chairman Eric Novack (invited); Arizona Senator Nancy Barto; and Former Arizona Congressman John Shadegg (invited)

**Friday, December 2**

9:30-10:45 a.m.

HHS Workshop (topic and panel TBD)

2:00-5:00 p.m.

HHS Task Force Meeting

**About ALEC's 35-Day Mailing**

If you choose to receive 35-Day Mailings via "snail mail," please contact Sean Riley at 202-742-8541 or at [sriley@alec.org](mailto:sriley@alec.org). We will assume that you prefer the 35-Day Mailing e-mailed to you unless you indicate otherwise.

**Enclosed Materials**

Please find the following HHS briefing materials enclosed. Please note that an HHS Task Force roster

is not included in this mailing; however, HHS Task Force members can request a copy at any time by e-mailing Sean Riley ([sriley@alec.org](mailto:sriley@alec.org)). .

- Faxable registration form for ALEC's 2011 States and Nation Policy Summit
- Agenda-At-A-Glance for ALEC's 2011 States and Nation Policy Summit
- Tentative Agenda for the HHS Task Force Meeting at ALEC's 2011 States and Nation Policy Summit
- Potential Model Legislation (in order of submission):
  - *Medicaid Managed Long-Term Care Services and Supports Act*, sponsored by Pam Perry, Amerigroup
  - *Resolution Urging States and Interested Parties to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse*, sponsored by Candie Phipps, Endo Pharmaceuticals
  - *Health Care Equitable Payment Act*, sponsored by Jane Orient, Association of American Physicians and Surgeons
  - *Resolution Ensuring Patient Protections Remain in Place in Medicaid Pharmacy Benefits*, sponsored by Iowa Representative Linda Miller
  - *Standards for Health Care Communication Act*, sponsored by Josh Brown, Pfizer
- Draft Minutes from the HHS Task Force Meeting at ALEC's 38<sup>th</sup> Annual Meeting
- ALEC's Mission Statement/Scholarship Policy by Meeting/Task Force Operating Procedures

### **Questions?**

I look forward to seeing everyone in Phoenix. If you have any questions or comments regarding the meeting, please contact me at (202) 742-8505 or at [christie@alec.org](mailto:christie@alec.org). Thank you for all you do to make ALEC a great organization for great health care policy!

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1101 Vermont Avenue, N.W., 11<sup>th</sup> Floor • Washington, D.C. 20005 • 202-742-8505 • Fax: 202-466-3801 • [www.alec.org](http://www.alec.org)

# 2011 ALEC STATES AND NATION POLICY SUMMIT

November 30 – December 2, 2011

The Westin Kierland Hotel  
6902 E. Greenway Parkway • Scottsdale, AZ 85254

STATES &  
NATION  
POLICY SUMMIT

PHOENIX, AZ  
Nov. 30 - DEC. 2, 2011

## ATTENDEE REGISTRATION / HOUSING FORM

Early registration deadline: November 7, 2011  
Housing cut-off date: November 7, 2011

Online  
[www.alec.org](http://www.alec.org)

Fax (credit cards only)  
202.331.1344

Phone / Questions  
Registration 202.742.8538 (Mon-Fri, 9am-5:30 pm Eastern)  
Housing 1-866-716-8137 (Available 24/7)

### ATTENDEE INFORMATION

Prefix (required)  Sen  Rep  Del  Mr  Mrs  Ms  Other \_\_\_\_\_  
Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_ Badge Nickname \_\_\_\_\_  
Title \_\_\_\_\_  
Organization (required) \_\_\_\_\_  
Mailing Address  Business  Home \_\_\_\_\_  
City \_\_\_\_\_ State/Province \_\_\_\_\_ Country \_\_\_\_\_ ZIP/Postal code \_\_\_\_\_  
Daytime phone \_\_\_\_\_ Fax \_\_\_\_\_ Alternate phone \_\_\_\_\_  
Email (confirmation will be sent by email) \_\_\_\_\_  
Emergency Contact Name \_\_\_\_\_ Daytime Phone \_\_\_\_\_ Evening Phone \_\_\_\_\_  
Dietary Restrictions \_\_\_\_\_  
Spouse / Guest: If registering a spouse or guest, please complete the spouse/guest registration form.

### REGISTRATION INFORMATION

#### Registration Fees

Note: Member fees are subject to verification

	Early Until Nov 7	Onsite Begin Nov 8	Daily
<input type="checkbox"/> ALEC Legislative Member	\$375	\$475	\$245
<input type="checkbox"/> Legislator / Non-Member	\$475	\$575	\$345
<input type="checkbox"/> ALEC Private Sector Member	\$725	\$875	\$445
<input type="checkbox"/> Private Sector Non-Member	\$925	\$1100	\$545
<input type="checkbox"/> ALEC Non-Profit Member (501(c)(3) status required)	\$525	\$625	\$345
<input type="checkbox"/> Non-Profit Non-Member (501(c)(3) status required)	\$675	\$825	\$445
<input type="checkbox"/> Legislative Staff / Government	\$400	\$500	\$245
<input type="checkbox"/> ALEC Alumni	\$425	\$525	\$295
<input type="checkbox"/> ALEC Legacy Member	\$0	\$0	\$0

For Daily Registration, circle which day:  Wed  Thur  Fri

REGISTRATION FEE : \$ \_\_\_\_\_

(Subtract \$50 from your registration fee if you are booking at The Westin Kierland Hotel)

**REGISTRATION CONFIRMATION INFORMATION** Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

**Note:** Registration forms with enclosed payments must be received by November 7, 2011 to be eligible for early bird registration rates. Forms and/or payments received after November 7, 2011 will be subject to on-site registration rates.

**DISCOUNT** You are eligible for \$50 discount on registration fee if you are registering and booking accommodations in ALEC's room block at The Westin Kierland Hotel before November 7, 2011. Hotel reservations will be verified for those who receive discounted rate. If you receive a discount and later cancel your Westin room reservation, you will be charged (or you will be invoiced) for an additional \$50 for your registration fee after the meeting.

#### METHOD OF REGISTRATION PAYMENT

Credit Card: Credit cards will be charged immediately.

Amer Express  Visa  MasterCard

Card # \_\_\_\_\_

Cardholder (please print) \_\_\_\_\_

Exp Date (mm/yy) \_\_\_\_\_ / \_\_\_\_\_ Signature \_\_\_\_\_

**REGISTRATION CANCELLATION / REFUND INFORMATION** Registrations cancelled prior to 5:00 pm Eastern November 7, 2011 are subject to a \$100 cancellation fee. Registrations are non-refundable after 5:00 pm Eastern November 7, 2011. Registration fees may be transferred from one registrant to another.

All refund requests must be made in writing and sent via email to [meetings@alec.org](mailto:meetings@alec.org) or fax to 202-331-1344.

### HOUSING

### RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS NOVEMBER 7, 2011

**\*\*Save \$50 on registration by booking your hotel room in ALEC's room block at The Westin Kierland Hotel\*\***

I do not require a reservation at this time.

Arrival Date \_\_\_\_\_ Departure Date \_\_\_\_\_

Sharing room with \_\_\_\_\_

#### Room type

<input type="checkbox"/> Single	(1 Adult)	\$ 208
<input type="checkbox"/> Double	(2 Adults)	\$ 208
<input type="checkbox"/> Triple	(3 Adults)	\$ 258
<input type="checkbox"/> Quad	(4 Adults)	\$ 308

\* All rates DO NOT include sales tax 12.27 % (subject to change)

**Note:** Cutoff for reservations at the ALEC rate is November 7, 2011. After November 7, 2011, every effort will be made to accommodate new reservations, based on availability and rate.

#### HOUSING CONFIRMATION INFORMATION

Online reservations will receive immediate email confirmation. Reservations received by form will be confirmed via email within 72 hours of receipt.

#### METHOD OF HOUSING PAYMENT

Please use the same method of payment as above.

Credit Card: Credit Cards will be used to guarantee the reservation.

Amer Express  Visa  MasterCard  Discover

Card # \_\_\_\_\_

Cardholder (please print) \_\_\_\_\_

Exp Date (mm/yy) \_\_\_\_\_ / \_\_\_\_\_ Signature \_\_\_\_\_

#### HOUSING CANCELLATION / REFUND INFORMATION

Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Please obtain a cancellation number when your reservation is cancelled.

# 2011 ALEC STATES AND NATION POLICY SUMMIT

November 30 – December 2, 2011

The Westin Kierland Hotel  
6902 E. Greenway Parkway • Scottsdale, AZ 85254

## SPOUSE/GUEST REGISTRATION FORM

STATES  
NATION

&

POLICY SUMMIT

PHOENIX, AZ  
NOV. 30 - DEC. 2, 2011

 Online  
www.alec.org

 Fax (*credit cards only*)  
202.331.1344

 Phone / Questions • Mon-Fri, 9am-5:30 pm Eastern  
Registration: 202.742.8538

### ATTENDEE INFORMATION IS REQUIRED TO REGISTER A SPOUSE OR GUEST

Last Name \_\_\_\_\_ First Name \_\_\_\_\_

Organization \_\_\_\_\_

Daytime phone \_\_\_\_\_

Email (*Confirmation will be sent by email*) \_\_\_\_\_

### SPOUSE / GUEST REGISTRATION

#### SPOUSE / GUEST REGISTRATION GUIDELINES

1. Spouse / guest registration is meant to accommodate legal spouse and immediate family members.
2. Attendees from the same organization must register independently. No exception will be made.
3. Spouse / guest designation will be clearly visible on name badge.

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle initial \_\_\_\_\_ Badge Nickname \_\_\_\_\_

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle initial \_\_\_\_\_ Badge Nickname \_\_\_\_\_

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle initial \_\_\_\_\_ Badge Nickname \_\_\_\_\_

#### SPOUSE / GUEST REGISTRATION FEES

<i>Number of Spouse/Guest(s)</i>	<i>Fee</i>	<i>TOTAL</i>
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Spouse / Guest *please note name(s) above* \_\_\_\_\_ \$ 150 \$ \_\_\_\_\_

#### METHOD OF SPOUSE / GUEST REGISTRATION PAYMENT

**Credit Card:** Credit cards will be charged immediately. Please fax to the above number for processing.

Amer Express

Card # \_\_\_\_\_

Visa

Cardholder (*please print*) \_\_\_\_\_

MasterCard

Exp Date (mm/yy) \_\_\_\_\_ / \_\_\_\_\_ Signature \_\_\_\_\_

#### REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

#### REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations cancelled prior to 5pm Eastern November 7, 2011 are subject to a \$100 cancellation fee. Registrations are non-refundable after 5pm Eastern November 7, 2011.

# STATES & NATION POLICY SUMMIT

PHOENIX, AZ  
Nov. 30 - Dec. 2, 2011

Tuesday, November 29th

<b>Joint Board of Directors Meetings</b>	7:30 am – 5:00 pm
<b>Registration</b>	12:00 pm – 5:00 pm
ALEC Joint Board Reception and Dinner	6:00 pm – 9:30 pm

Wednesday, November 30th

<b>Registration</b>	7:30 am – 5:00 pm
Task Force Subcommittee Meetings	8:00 am – 11:30 am
<b>Exhibits</b>	9:00 am – 5:00 pm
State Chairs Meeting	9:00 am – 11:00 am
New Legislator Orientation	10:15 am – 11:15 am
<b>Opening Plenary Luncheon</b>	<b>11:30 am – 1:15 pm</b>
Task Force Chairs Meeting	1:30 pm – 2:45 pm
<b>Workshops</b>	1:30 pm – 4:15 pm
Welcome Reception	6:30 pm – 8:30 pm

Thursday, December 1st

<b>Registration</b>	7:30 am – 5:00 pm
<b>Plenary Breakfast</b>	<b>8:00 am – 9:15 am</b>
<b>Exhibits</b>	9:00 am – 5:00 pm
Workshops	9:30 am – 12:15 pm
<b>Plenary Luncheon</b>	<b>12:30 pm – 2:15 pm</b>
Task Force Meeting:	2:30 pm – 5:30pm
▪ Civil Justice	
▪ Commerce, Insurance, and Economic Development	
▪ Education	
▪ Telecommunications and Information Technology	

National Chairman's Reception, <i>by Invitation Only</i>	5:30 pm – 6:30 pm
Gala Holiday Reception	6:30 pm – 8:30 pm
Hospitality Suite	9:00 pm – 11:00 pm

**Friday, December 2nd**

Registration	7:30 am – 2:30 pm
<b>Plenary Breakfast</b>	<b>8:00 am – 9:15 am</b>
Exhibits	9:00 am – 5:00 pm
Workshops	9:30 am – 12:15 pm
<b>Plenary Luncheon</b>	<b>12:30 pm – 1:45 pm</b>
Task Force Meetings:	2:00 pm – 5:00 pm
<ul style="list-style-type: none"><li>▪ Energy, Environment and Agriculture</li><li>▪ Health and Human Services</li><li>▪ International Relations</li><li>▪ Public Safety and Elections</li><li>▪ Tax and Fiscal Policy</li></ul>	
<b>State Delegation Night</b>	<b>Beginning at 6:30 pm</b>





**Health and Human Services Task Force Meeting  
ALEC's 2011 States and Nation Policy Summit  
Friday, December 2, 2011  
2:00-5:00 p.m.**

**TENTATIVE AGENDA**

- 2:00 p.m.**     **Welcoming Remarks**  
                    **Roundtable Introduction of Task Force Members and Guests**  
                    **Recognition of New and Returning ALEC Private Sector Members**  
                    **Introduction of ALEC HHS Executive Committee for 2011-12**  
                    **Approval of Minutes from ALEC's 38<sup>th</sup> Annual Meeting**  
                    **Update on ALEC HHS Model Legislation in the 2011 Session**  
                    Wisconsin Senator Leah Vukmir, HHS Public Sector Chair  
                    Marianne Eterno, Guarantee Trust Life Insurance, HHS Private Sector Chair

- 2:30 p.m.**     **SPECIAL PRESENTATIONS**  
                    **Utah State Employees and Health Savings Accounts: A Promising Approach**  
                    Representative Brad Daw, District 60, Utah House of Representatives

- 2:50 p.m.**     **PPACA Update: Data Collection and Privacy Concerns**  
                    Joan Gardner, Blue Cross Blue Shield Association

- 3:00 p.m.**     **Florida's Healthcare Reforms: Success in the Sunshine State**  
                    Tarren Bragdon, Florida Foundation for Government Accountability

- 3:20 p.m.**     **MODEL LEGISLATION: DISCUSSION AND VOTING**  
(NOTE: Model legislation is considered in order of submission. Any model legislation not considered at this meeting will be considered at ALEC's 2012 Spring Task Force Summit.)

***Medicaid Managed Long-Term Care Services and Supports Act***, sponsored by Pam Perry, Amerigroup

***Resolution Urging States and Interested Parties to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse***, sponsored by Candie Phipps, Endo Pharmaceuticals

***Health Care Equitable Payment Act***, sponsored by Jane Orient, Association of American Physicians and Surgeons

***Resolution Ensuring Patient Protections Remain in Place in Medicaid Pharmacy Benefits***, sponsored by Iowa Representative Linda Miller

***Standards for Health Care Communication Act***, sponsored by Josh Brown, Pfizer

- 5:00 p.m.**     **Good of the Order/Adjournment**

**MEDICAID MANAGED LONG-TERM SERVICES AND SUPPORTS ACT**  
**(DRAFT, DECEMBER 2, 2011)**

**SUMMARY**

This Act implements a coordinated and capitated long-term care program for Medicaid beneficiaries who are chronically ill or who have disabilities and need health and long-term care services and supports, such as home care or adult day care. The program will allow these people to stay in their homes and communities as long as possible, and delay the transition to institutional care. The plan arranges and pays for a large selection of health and social services, and provides choice and flexibility in obtaining needed services from one place, at a lower cost than under a Medicaid fee-for-service program.

**MODEL LEGISLATION**

**Section 1. Short Title.** This Act shall be known as the “Medicaid Managed Long-Term Services and Supports Act.”

**Section 2. Definitions.**

A. Eligible Medicaid beneficiaries means the following:

1. Frail elders (ages 60+) who are receiving 1915(c) Medicaid waiver services;
2. Adults with physical disabilities (ages 18-64) who are receiving Medicaid home and community based waiver services;
3. Children (ages 3-17) with physical disabilities who are receiving Medicaid home and community based waiver services;
4. Individuals who are dually eligible under the Medicaid program and the Medicare program established under Title XVIII of the Social Security Act, 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended; and
5. Medicaid consumers with a nursing facility level of care, or at risk for needing a nursing facility level of care.

B. Eligible services include acute care, including medical, pharmacy, dental, and behavioral health services, and the following long-term care services and supports:

1. Nursing facility care;
2. Services provided in assisted living facilities;
3. Hospice;
4. Adult day care;
5. Medical equipment and supplies;
6. Personal care;

7. Home accessibility adaptation;
8. Behavior management;
9. Case management;
10. Therapies, to include:
  - a. Occupational therapy;
  - b. Speech therapy;
  - c. Respiratory therapy; and
  - d. Physical therapy;
11. Intermittent and skilled nursing;
12. Medication administration;
13. Medication management;
14. Nutritional assessment and risk reduction;
15. Caregiver training;
16. Respite care;
17. Transportation; and
18. Personal emergency response system.

**Section 3.** The {insert state department of health and human services} shall establish a capitated Medicaid long-term services and supports coordinated care program. The department shall make payments for long-term care, including home and community-based services, using a managed care model.

The {insert state department of health and human services} shall submit, if necessary, applications to the United States Department of Health and Human Services for waivers of federal Medicaid requirements that would otherwise be violated in the implementation of the system, and shall consolidate current home and community based waivers where appropriate. The {insert state department of health and human services} shall ensure that all participants are enrolled in health insuring corporations under contract with the {insert state department of health and human services} pursuant to the appropriate section of the state code. The program shall be statewide, fully integrated, and risk based; shall integrate Medicaid-reimbursed primary, acute, and long-term care services; and shall align incentives to ensure the right care is delivered in the most appropriate place and time.

In designing the program, the **{insert state department of health and human services}** shall ensure that the program:

- A. Reduces fragmentation and offers a seamless approach to meeting people's needs;
- B. Delivers needed supports and services in the most integrated, appropriate, and cost-effective way possible;
- C. Offers a continuum of acute and long-term care services, which includes an array of home and community-based options including community-based residential alternatives;
- D. Includes a comprehensive quality approach across the entire continuum of long term care services; and
- E. Consults stakeholders in the program development process.

**Section 4. {Severability Clause}**

**Section 5. {Repealer Clause}**

**Section 6. {Effective Date}**

**RESOLUTION URGING STATES AND INTERESTED PARTIES TO PARTNER  
AND IDENTIFY OPPORTUNITIES TO ADDRESS AND REDUCE PRESCRIPTION  
DRUG ABUSE AND MISUSE (DRAFT, DECEMBER 2, 2011)**

**SUMMARY**

This resolution calls on state officials, prescribers, pharmacists, school-based organizations, and manufacturers of branded and generic prescription medications to partner and evaluate existing efforts aimed at deterring prescription drug abuse; to determine the effectiveness of current efforts; and to make recommendations to the state on best practices for combating abuse while ensuring that access is not restricted for those individuals who are in need of prescription medications.

**MODEL RESOLUTION**

**WHEREAS**, Prescription drug abuse and misuse is an increasing public health concern in the United States; and

**WHEREAS**, A balanced approach to preventing prescription drug abuse must ensure sufficient access to medications for patients with a legitimate medical need; and

**WHEREAS**, Prescription drugs account for the second most commonly abused category of drugs, behind marijuana and ahead of cocaine, heroin, methamphetamine, and other drugs; and

**WHEREAS**, The misuse and abuse of prescription drugs has become increasingly prevalent among teens and young adults. For example, among 12-17 year olds, prescription drug abuse took either first or second place in abuse prevalence; and

**WHEREAS**, While opioids, stimulants, and central nervous system depressants are properly used by millions of people, the misuse and abuse of these products are imposing increasing costs on individuals, families, and society; and

**WHEREAS**, The personal and financial toll of prescription drug abuse and misuse are negatively impacting the states through law enforcement constraints, drug treatment costs, and incarceration costs; and

**WHEREAS**, Efforts to reduce prescription drug abuse should not negatively impact a patient's access to necessary and prescribed drug treatments.

**NOW THEREFORE BE IT RESOLVED THAT**, Officials in {insert state} are encouraged to partner with prescribers, pharmacists, school-based organizations, and manufacturers of branded and generic prescription medications to evaluate existing efforts at deterring prescription drug abuse; determine the effectiveness of current efforts; and make recommendations to the state on best practices for combating abuse while ensuring that access is not restricted for those individuals who are in need of prescription medications.

## **HEALTH CARE EQUITABLE PAYMENT ACT** **(DRAFT, DECEMBER 2, 2011)**

### **SUMMARY**

This Act allows puts certain guidelines in place to prevent third-party payers from engaging in discriminatory payment practices with independent healthcare providers and self-paying patients.

### **BACKGROUND**

Medical Savings Accounts (MSAs) were introduced largely due to the efforts of the late J. Patrick Rooney, whose Golden Rule Insurance Co. had experimented with high-deductible health insurance policies offering greater control and freedom of choice for patients.

There were to be no restrictions concerning which physician, which hospital, or which form of treatment was elected. This is consistent with economic principles where the buyer and seller freely compete for goods and services without third party intervention, thus providing for the best and most economical method of purchase of medical services.

Another important aspect of MSAs was the projected growth of cash balances over the years, as judicious use would likely allow excess funds to accumulate.

A restricted form of the idea, Health Savings Accounts (HSAs), enacted into federal law, permits a federal tax advantage.

The concept should have been a great success in reducing spending and prices, while expanding freedom of choice. However, success has been greatly limited, largely because of discrimination against self-paying patients, or patients using an out-of-network provider. Hospitals have a practice of charging 400% to 1,000% of their baseline rates to these non-preferred consumers.

Thus, even if a patient using an HSA plus a high-deductible health plan (HDHP) should receive a 25% discount after being subjected to a 400% increase, he would still be paying 300%, or three times the amount the hospital willingly accepts from contracted insurers. If a 1,000% charge rate were to be used, a 25% reduction would result in the individual paying 750%, or 7.5 times as much as multi-billion-dollar insurance cartels pay for the same service.

As other large insurers developed HSAs and HDHPs, they tied them to in-network “providers,” negating their most important purpose, to provide complete freedom to choose one’s physician and hospital by using one’s own money.

Third-party payers are now punishing their subscribers for seeking out-of-network physicians, even in the event of a medical emergency. If a patient has met his in-network deductible for the year, but is subsequently treated by an out-of-network physician, a whole new deductible applies—often a larger one. Additionally, the percentage copay is always higher for the out-of-network physician, even if he was the only one available in an emergency.

Worse, it is not based upon the billed charges, but rather upon the “usual and customary rates” (UCR). These rates have absolutely nothing to do with actual rates charged by physicians, but rather, are numbers that vary widely from one company to another, and can be

essentially whatever the company decides they should be. There is no way for the subscriber/patient to know in advance what the UCR is, because his insurer refuses to divulge this information.

Another major problem with third-party payment is that it is much lower for surgery performed in a physician-owned outpatient surgery center, or for imaging studies or other procedures done in independent facilities, than for exactly the same procedures performed in hospital-owned facilities. This payment scheme discriminates against truly independent practitioners and stifles competition. It promotes the formation of cartels, contrary to the purpose of the Sherman Antitrust legislation.

Discriminatory payment is threatening the viability of independent physicians and facilities. The *Patient Protection and Affordable Care Act* apparently realizes this, and prohibits hospitals that claim tax benefits under Section 501(c)(3) from charging certain uninsured patients “more than the amounts generally billed to individuals who have insurance covering such care.” 26 U.S.C. Section 501(r)(5).

## **MODEL LEGISLATION**

**Section 1. Short Title.** This Act shall be known as “Health Care Equitable Payment Act.”

**Section 2. Antitrust.**

- A. Any express or implied agreement with an insurance company concerning prices charged to the self-paying patient or out-of-network patient shall constitute unlawful restraint of trade and be actionable.
- B. For state accreditation, hospitals must modify their nondiscrimination policy to include self-insured patients. For example: “The hospital must not discriminate on the basis of age, gender, race, ethnicity, national origin, sexual orientation, disability, *or payment method*.”

**Section 3. Prohibition of State Discrimination Against Independent Providers.**

- A. No state-funded benefits programs, including but not limited to worker’s compensation, Medicaid, or state employee benefits, shall pay more to favored providers such as hospitals or hospital-owned facilities than to independent physicians or facilities for equivalent services.

**Section 4. Protection of the Right of Private Contract of Individuals.**

- A. Any agreement, understanding, or practice, written or oral, implied or expressed, between any hospital and insurance company that shifts higher costs to the self-paying patient is hereby declared to be unlawful, null and void, and of no legal effect.  
*(Drafting Note: This prevents insurers from interfering with the free bargaining between an individual and a hospital, and is analogous to “right-to-work” legislation.)*

- B. Hospitals that claim tax benefits under Section 501(c)(3) must offer self-insured or self-paying patients, including those with HSA/HDHPs, billing rates that are comparable to those that the hospital generally accepts from insurance companies.

- C. No hospital or medical facility may refuse to accept payment from a patient based directly or indirectly on a contract with an insurance company.

*(Drafting Note: This prevents insurers from interfering in the right of hospitals to offer and be paid by patients for services that are “covered” but denied.)*

**Section 5. {Severability Clause}**

**Section 6. {Repealer Clause}**

**Section 7. {Effective Date}**

**RESOLUTION ENSURING PATIENT PROTECTIONS REMAIN IN PLACE IN  
MEDICAID PHARMACY BENEFITS (DRAFT, DECEMBER 2, 2011)**

**SUMMARY**

This resolution urges state officials to implement certain safeguards and patient protections if the state's Medicaid pharmacy benefits are transitioned from a fee-for-service setting to managed care.

**MODEL RESOLUTION**

**WHEREAS**, Medicaid provides health care and prescription drug coverage to the state's most vulnerable patients; and

**WHEREAS**, Budgetary pressures and changes brought about by the *Patient Protection and Affordable Care Act* are causing some states to consider changing the way their state's Medicaid pharmacy benefit is delivered; and

**WHEREAS**, An increasing number of states are shifting their Medicaid pharmacy benefit from a fee-for-service (FFS) model to a Medicaid managed care model (MCO); and

**WHEREAS**, It is critical that the preferred drug list (PDL) requirements and protections currently afforded patients in FFS remain in place as states make changes to their Medicaid pharmacy benefit; and

**WHEREAS**, Such PDL requirements and patient protections will help ensure continued access to and quality of care for Medicaid patients whose pharmacy benefit is shifted to Medicaid managed care; and

**WHEREAS**, Important patient protections currently exist in states that employ a FFS Medicaid pharmacy benefit model as required by Section 1927 of the Social Security Act; and

**WHEREAS**, Section 1927 of the Social Security Act generally requires, at a minimum, that there be open Pharmacy and Therapeutics (P&T) Committee meetings; that any prior authorization (PA) requests be responded to within 24 hours; and also requires coverage of branded products where a Medicaid rebate is offered and sets forth minimum PDL requirements; and

**WHEREAS**, Section 1927(d)(5)(B) of the Social Security Act allows for PAs only if the approval system in place can provide a response to the request, by phone or other telecommunications device, within 24 hours. In addition, pursuant to section 1927, states are required to provide for the dispensing of at least a 72-hour supply of a drug in emergency situations. These protections are no less important, or meaningful, in managed Medicaid; and

**WHEREAS**, Prescription drug coverage plays a critical role in a patient's overall treatment, and ensuring that sufficient therapeutic options are available is important to the quality of patient care; and

**WHEREAS**, Physicians are best able to make treatment decisions for their patients based on the patient's medical history, drug history, and physical and/or mental condition; and

**WHEREAS**, Physicians should ultimately determine the prescription drug therapy, or other treatment, that is best for their patient; and

**WHEREAS**, Medicaid patients shifted to Medicaid managed care should receive at least the same coverage of and access to prescription drugs as they received under FFS; and

**WHEREAS**, An independent and transparent P&T Committee that meets certain minimum requirements is essential to helping ensure robust formulary coverage and sufficient access to meet patient needs; and

**WHEREAS**, While formulary management tools can provide an effective means to help ensure appropriate drug utilization and manage costs, it is important that such tools not create barriers to access. P&T Committees can play an important role in monitoring and appropriately implementing formulary management tools; and

**WHEREAS**, In order to help prevent formulary management tools—like prior authorization, step therapy, or generic “fail first”—from limiting physician choice and decision-making, it is important that certain guidelines for their implementation be established.

**NOW THEREFORE IT BE RESOLVED THAT**, {Insert state} should be free to choose how the Medicaid pharmacy benefit is delivered as long as the state has strong and specific patient protections in place that, among other things, respect the prescriber’s treatment recommendation(s) and ensure coverage of and access to a broad range of generic and branded prescription drug therapies; and

**BE IT FURTHER RESOLVED THAT**, {Insert state legislative body} urges adoption of the following criteria, if {insert state}’s Medicaid pharmacy benefit is shifted to the MCO setting:

1. The PDL for the Medicaid MCO is no more restrictive than the state’s FFS PDL;
2. The MCO PDL is developed and reviewed by an independent P&T Committee;
3. A P&T Committee reviews the MCO’s medication therapy management tools for appropriateness;
4. MCOs adopt a fair, transparent and uniform process for handling PAs and appeals; and
5. Physicians are empowered to make the final decision regarding the best course of therapy for their patients; and

**BE IT FURTHER RESOLVED THAT**, {Insert state}’s Medicaid officials examine the Texas and Florida models, which have been successful in working to implement important patient protections and safeguards.

**STANDARDS FOR HEALTH CARE COMMUNICATION ACT**  
**(DRAFT, DECEMBER 2, 2011)**

**SUMMARY**

This Act ensures that academic detailers are bound to the same standards and rules as those in the private sector. “Academic detailing” is comprised of prescriber outreach programs typically funded by the government or by universities.

**Section 1.** This Act may be cited as the “Standards for Health Care Communication Act.”

**Section 2. Legislation.**

A. Academic detailers shall observe standards of conduct in their educational materials and written and oral presentations as established by rules adopted by the appropriate state department or agency that are consistent with the following federal regulations regarding labeling and false and misleading advertising:

1. The Food and Drug Administration labeling requirements of 21 Code of Federal Regulations;
2. Part 201 (2007) and prescription drug advertising provisions of 21 Code of Federal Regulations; and
3. Part 202 (2007) and the Office of the Inspector General’s Compliance Program Guidance for Pharmaceutical Manufacturers issued in April 2003, as amended.

**Section 3. {Severability Clause}**

**Section 4. {Repealer Clause}**

**Section 5. {Effective Date}**



**Health and Human Services Task Force Meeting  
ALEC's 38<sup>th</sup> Annual Meeting  
Thursday, August 4, 2011  
2:30 – 5:30 p.m.  
Meeting Minutes**

**Legislative Members in Attendance (44)  
Legislative Alternates in Attendance (2)  
Private Sector Members in Attendance (48)  
Invited Guests in Attendance (2)  
Others in Attendance (89)  
Staff in Attendance (4)**

\* \* \*

Meeting began at 2:30 p.m.

The meeting began with a welcoming remarks to the HHS Task Force by Public Sector Chair, Wisconsin Senator Leah Vukmir, and Private Sector Chair, Marianne Eterno of Guarantee Trust Life Insurance; roundtable introductions of HHS Task Force meeting attendees; recognition of new and returning ALEC private sector members; introduction of ALEC HHS Executive Committee for 2011-2012; and approval of the minutes from ALEC's 2011 Spring Task Force Summit.

The HHS Task Force saw a special presentation by Terry Jennings of Reed Elsevier on Medicaid fraud.

The HHS Task Force saw a special presentation by Joan Gardner of Blue Cross Blue Shield Association on rate review and the health insurance tax in PPACA.

The HHS Task Force saw a special presentation by Nick Dranias of the Goldwater Institute on the SCOTUS decision in *Bond v. United States* and its implications for federalism.

HHS Task Force members considered the *Health Care Equitable Reimbursement Act*, sponsored by Jane Orient of the Association of American Physicians and Surgeons. After discussion, the *Health Care Equitable Reimbursement Act* was tabled for discussion at a later meeting.

HHS Task Force members considered the *Resolution Urging States and Manufacturers of Prescription Medications to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse*, sponsored by Candie Phipps of Endo Pharmaceuticals. HHS Task Force Members considered amendments to the resolution. After discussion, the public sector vote on the amendments was 22 Yes, 8 No; the private sector vote was 32 Yes, 3 No. The amendments to the resolution were adopted. After discussion on the amended resolution, the *Resolution Urging States and Manufacturers of Prescription Medications to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse*

was tabled for discussion at a later meeting.

HHS Task Force members considered the *Resolution Against PPACA Health Insurance Exchanges*, sponsored by Arizona Senator Nancy Barto. HHS Task Force members considered amendments to the resolution. After discussion, the public sector vote on the amendments was 31 Yes, 0 No; the private sector vote was 19 Yes, 2 No. The amendments to the resolution were adopted. After discussion on the amended resolution, the public sector vote was 25 Yes, 9 No; the private sector vote was 20 Yes, 7 No. The *Resolution Against PPACA Health Insurance Exchanges* was approved.

HHS Task Force members considered the *State Employee Health Savings Account Act*, sponsored by Amanda Griffin-Johnson of the Illinois Policy Institute. After discussion, the public sector vote was 27 Yes, 0 No; the private sector vote was 27 Yes, 0 No. The *State Employee Health Savings Account Act* was approved.

HHS Task Force members considered the *Resolution Supporting Choices for Americans with Disabilities*, sponsored by Daryn Demeritt of ResCare. HHS Task Force Members considered amendments to the resolution. After discussion, the amendments were adopted by voice vote by both the public and private sector members. After discussion, the amended *Resolution Supporting Choices for Americans with Disabilities* was approved by voice vote by both the public and private sector members.

Finally, HHS Task Force Members considered the *Health Care Compact Act*, sponsored by Arlene Wohlgemuth of the Texas Public Policy Foundation. After discussion, the public sector vote was 20 Yes, 1 No; the private sector vote was 17 Yes, 6 No. The *Health Care Compact Act* was approved.

The meeting adjourned at 5:40 p.m.

\* \* \*



## **Mission Statement**

The American Legislative Exchange Council's mission is...

To advance the Jeffersonian Principles of free markets, limited government, federalism, and individual liberty through a nonpartisan public-private partnership among America's state legislators, concerned members of the private sector, the federal government, and the general public.

To promote these principles by developing policies that ensure the powers of government are derived from, and assigned to, first the People, then the States, and finally the Federal Government.

To enlist state legislators from all parties and members of the private sector who share ALEC's mission.

To conduct a policy making program that unites members of the public and private sector in a dynamic partnership to support research, policy development, and dissemination activities.

To prepare the next generation of political leadership through educational programs that promote the principles of Jeffersonian democracy, which are necessary for a free society.

## SCHOLARSHIP POLICY BY MEETING

### **ALEC Spring Task Force Summit:**

1. ***Spring Task Force Summit Reimbursement Form:*** ALEC Task Force Members are reimbursed by ALEC up to \$350.00 for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.
2. ALEC Task Force Members' room & tax fees for up to a two-night stay at the host hotel are covered by ALEC.
3. Registration fees are not covered; however, Task Force Members may submit registration expenses for payment from their state scholarship account upon approval of the State Chair.
4. ***Official Alternate Task Force Members*** (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) are reimbursed in the same manner as Task Force Members.
5. ***State Scholarship Reimbursement Form:*** Any fees above the set limit, or expenses other than travel and room expenses can be submitted by Task Force Members for payment from their state scholarship account upon the approval of the State Chair. Receipts must be submitted to the State Chair, who will submit the signed form to the Director of Membership.
6. ***Non-Task Force Members*** can be reimbursed out of the state scholarship fund upon State Chair approval. Receipts must be submitted to the State Chair, who will submit the appropriate signed form to the Director of Membership.

### **ALEC Annual Meeting:**

***State Scholarship Reimbursement Form:*** State scholarship funds are available for reimbursement by approval of your ALEC State Chair. Expenses are reimbursed after the conference, and may cover the cost of travel, room & tax, and registration. Receipts are to be submitted to the State Chair, who will then submit the signed form to the Director of Membership.

### **ALEC States & Nation Policy Summit:**

1. ***States & Nation Policy Summit Reimbursement Form:*** ALEC offers two scholarships per state to cover the cost of travel, room & tax, and registration not to exceed \$1,000.00 per person for a total of \$2,000.00 per state. ALEC scholarship recipients must be named by the ALEC State Chair. Expenses are submitted to the State Chair and reimbursed after the conference. The State Chair submits the signed form to the Director of Membership.
2. ***State Scholarship Reimbursement Form:*** Any other fees or payments must come out of the state scholarship account, with the approval of the State Chair. Receipts must be submitted to the State Chair, who submits the signed form to the Director of Membership.

### **ALEC Academies:**

***Academy Reimbursement Form:*** Attendees of ALEC Academies are reimbursed by the Task Force Committee hosting the Academy. Attendees will receive a form at the Academy, and will be reimbursed up to \$500.00 for travel, and room & tax fees for a two-night stay by ALEC. Receipts must be forwarded to the appropriate Task Force Director and approved by the Director of Policy.



## **American Legislative Exchange Council TASK FORCE OPERATING PROCEDURES**

### **I. MISSION OF TASK FORCES**

Assume the primary responsibility for identifying critical issues, developing ALEC policy, and sponsoring educational activities which advance the Jeffersonian principles of free markets, limited government, federalism, and individual liberty. The mission will be accomplished through a non-partisan, public and private partnership between ALEC's legislative and private sector members in the specific subject areas assigned to the Task Force by the Board of Directors.

### **II. TASK FORCE RESPONSIBILITIES**

- A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC's official policy statements and model legislation appropriate to the **specific subject areas** of the Task Force.
- B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC's state legislator and private sector members.
- C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:
  - publications that express policy positions, including, but not limited to State Factors and Action Alerts;
  - educational communication and correspondence campaigns;
  - issue specific briefings, press conferences and press campaigns;
  - witness testimony and the activities of policy response teams;
  - workshops at ALEC's conferences; and
  - specific focus events.
- D. The Executive Director is to develop an **annual budget**, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.



### ***III. GENERAL PROCEDURES***

- A. Requests from ALEC members for policy statements, model legislation and educational activities shall be directed by the Executive Director to the appropriate Task Force, or the Board of Directors if the issue does not fall within the **jurisdiction** of any Task Force. The appropriate Public and Private Sector Task Force Co-Chairs determine the agenda for each Task Force meeting, and the meetings will be called and conducted in accordance with these Operating Procedures.

The Director of Policy with the consent of the Executive Director assigns a model bill or resolution to the most appropriate Task Force based on Task Force content and prior jurisdictional history 35 days before a Task Force Meeting. All Task Force Co-Chairs will be provided an email or fax summary of all **model bills and resolutions 35 days before** the Task Force meeting

If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have **10 days after the 35-day mailer deadline** to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdiction assignment. The Director of Policy will notify the Executive Director who will in turn notify the National Chair and the Private Enterprise Board Chair. The National Chair and the Private Enterprise Board Chair will in turn refer the matter in question to the Board of Directors Task Force Board Committee. The Director of Policy will establish a conference call for the Task Force Board Committee co-chairs, the author, the affected Task Force Co-Chairs and the Director of Policy at a time convenient for all participants.

**The Task Force Board Committee Co-Chairs** shall listen to the jurisdictional dispute by phone or in person within 10 days of the request. If both Task Force Board Committee Co-Chairs are in agreement that the Director of Policy made an incorrect jurisdictional referral, only then will the model bill or resolution be reassigned to a committee as they specify once agreed upon by the **National Chair and the Private Enterprise Board Chair**. The bill or model resolution is still eligible to be heard in whatever Task Force it is deemed to be assigned to as if submitted to the correct Task Force for the 35-



day mailer. The National Chair and the Private Enterprise Board Chair decision is final on this model bill or resolution.

**Joint referral of model legislation and/or resolutions** are allowed if all the affected Task Force Co-Chairs agree. All model legislation and resolutions that have been referred to, more than one Task Force must pass the identical language in both Task Forces within two consecutive Task Force meetings. It is at the Task Force Co-Chairs discretion how they will handle the hearings of the model legislation or resolution. Both sets of co-chairs have the ability to call a working group, subcommittee, or simply meet consecutively or concurrently if necessary.

If the Task Force co-chairs both agree to waive jurisdiction, they may do so as long as another Task Force still has jurisdiction.

The National Chair and the Private Sector Board Chair will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.

- B. **The National Chair and the Private Sector Board Chair** will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.
- C. **The Board of Directors** shall have ultimate authority over Task Force procedures and actions including the authority to create, to merge or to disband Task Forces and to review Task Force actions in accordance with these Operating Procedures. Nothing in these Operating Procedures prohibits the Board of Directors from developing ALEC policy; however, such a practice



should be utilized only in exceptional circumstances. Before the policy is adopted by the Board of Directors, it should be sent to the Public and Private Sector Task Force Co-Chairs under whose jurisdiction the matter falls for review and comment back to the Board of Directors.

- D. The **operating cycle of a Task Force** is two years. A new operating cycle begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Task Force activities shall be planned and budgeted on an annual basis within each two-year operating cycle.
- E. If a Task Force is **unable to develop an operating budget**, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.
- F. **The Board of Directors** shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

#### **IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES**

- A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force's operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year's assessment for the Task Force operating budget prior to March 31<sup>st</sup>, unless an alternative date has been approved by the Executive Director.
- B. Each Task Force shall have least two **Co-Chairs**; a Public Sector Task Force Co-Chair and a Private Sector Task Force Co-Chair. The Public Sector Task Force Co-Chair must be a member of the Task Force and appointed in



accordance with Section VI (A). The Private Sector Co-Chair must represent a private sector member of the Task Force and be appointed in accordance with Section VI(B). The Co-Chairs shall be responsible for:

- (1) calling the Task Force and the Executive Committee meetings to order, setting the agenda and co-chairing such meetings;
  - (2) appointing and removing legislators and private sector members to and from the Task Force Executive Committee and subcommittees;
  - (3) creating subcommittees, and determining each subcommittee's mission, membership limit, voting rules, deadlines, and term of service; and
  - (4) selecting Task Force members to provide support for and against Task Force policies during formal Board reviews.
- C. Each Task Force shall have an **Executive Committee** appointed by the Public and Private Sector Task Force Co-Chairs that is appropriate in number to carry out the work product and strategic plan of ALEC and the Task Force. The Executive Committee shall consist of the Public Sector Task Force Co-chair, the Private Sector Task Force Co-Chair, the subcommittee co-chairs, and the remainder will be an equal number of legislative and private sector Task Force members. The Executive Committee will be responsible for determining the operating budget and proposing plans, programs and budgets for the succeeding year in accordance with (Section V (B); determining if a proposed educational activity conforms to a previously approved model bill, resolution or policy statement in accordance with (Section IX (F); and determining if an emergency situation exists that justifies waiving or reducing appropriate time limits in accordance with (Section VIII (H)).
- D. Each Task Force may have any number of **subcommittees**, consisting of Task Force members and advisors to focus on specific areas and issues and make policy recommendations to the Task Force. The Task Force Co-chairs, shall create subcommittees and determine each subcommittee's mission, membership limit, voting rules, deadlines, and term of service. Any model bill, resolution or policy statement approved by a subcommittee must be approved by the Task Force before it can be considered official ALEC policy.
- E. Each Task Force may have advisors, appointed in accordance with Section VI (G). **Advisors** shall assist the members and staff of the Task Force. They shall be identified as advisors on official Task Force rosters, included in all official



Task Force mailings and invited to all Task Force meetings. Advisors may also have their expenses paid at Task Force meetings covered by the Task Force operating budget with the approval of the Task Force Co-Chairs. An advisor cannot be designated as the primary contact of a private sector Task Force member, cannot be designated to represent a private sector Task Force member at a Task Force, Executive Committee, or subcommittee meeting, and cannot offer or vote on any motion at a Task Force, Executive Committee, or subcommittee meeting.

#### ***V. Task Force Budgets***

- A. Each Task Force shall develop and operate a yearly budget to fund meetings.
- B. The **operating budget** shall be used primarily to cover expenses for Task Force meetings, unless specific funds within the budget are authorized for other use by the Task Force. The operating budget shall be assessed equally among the private sector members of the Task Force. The Executive Director, in consultation with the Task Force Co-Chairs shall determine which costs associated with each meeting will be reimbursed from the operating budget. Any funds remaining in a Task Force's operating budget at the end of a year are transferred to ALEC's general membership account.
- C. The operating budget shall not be used to cover Task Force meeting expenses associated with **alternate task force members'** participation, unless they are appointed by their State Chair to attend the Spring Task Force Summit with the purpose to serve in place of a Task Force Member who is unable to attend. Task Force meeting expenses of alternate task force members shall be covered by their state's scholarship account.
- D. The **programming budget** shall be used to cover costs associated with educational activities. Contributions to the programming budget are separate, and in addition to operating budget contributions and annual general support/membership contributions to ALEC. The Executive Director shall determine the contribution required for each educational activity.

#### ***VI. PROCESS FOR SELECTING TASK FORCE MEMBERS, CHAIRS, COMMITTEES AND ADVISORS***



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- A. Prior to February 1 of each odd-numbered year, the current and immediate past National chairman will jointly select and appoint in writing **three legislative members and three alternates to the Task Force** who will serve for the current operating cycle, after receiving nominations from ALEC's Public and Private State Chairs, the Executive Director and the ALEC Public and Private Sector members of the Board. At any time during the year, the National Chairman may appoint in writing new legislator members to each Task Force, except that no more than three legislators from each state may serve as members of any Task Force, no legislator may serve on more than one Task Force and the **appointment cannot be made earlier than thirty days** after the new member has been nominated. In an effort to ensure the nonpartisan nature of each Task Force, it is recommended that no more than two legislators of any one political party from the same state be appointed to serve as members of any Task Force. A preference will be given to those ALEC legislator members who serve on or chair the respective Committee in their state legislature. A preference will be given to legislators who sponsor ALEC Task Force model legislation in the state legislature.
- B. Prior to January 10 of each odd-numbered year, the current and immediate past National Chairman will jointly select and appoint in writing **the Task Force Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Chair and may be placed in rank order prior to transmittal to the Executive Director no later than December 1 of each even-numbered year. No more than five names may be submitted in nomination by the outgoing Task Force chair. The current and immediate past National Chairmen will jointly make the final selection, but should give strong weight to the recommendations of the outgoing Task Force Chair. In an effort to empower as many ALEC leaders as possible, State Chairs and members of the Board of Directors will not be selected as Task Force Chairs. Task Force Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past National Chairmen may reappoint a Task Force Chair to a second operating cycle term.
- C. Prior to February 1 of each odd numbered year, the Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members of the **Task Force Executive Committee**, who will serve for the current operating cycle. The Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members and advisors to any subcommittee.



- D. Prior to February 1 of each year, the Private Enterprise Board Chair and the immediate past Private Enterprise Board Chair will select and appoint in writing the private sector members to the Task Force who will serve for the current year. The appointment letter shall be mailed to the individual designated as the primary contact for the private sector entity. At any time during the year, the Chair of the Private Enterprise Board may appoint in writing **new private sector members** to each Task Force, but no earlier than thirty days after the new member has qualified for full membership in ALEC and contributed the assessment for the appropriate Task Force's operating budget.
- E. Prior to January 10 of each odd-numbered year, the Chair of the Private Enterprise Board and the immediate past Private Enterprise Board Chair will select and appoint in writing the **Task Force Private Sector Co-Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Private Sector Chair and may be placed in rank order prior to transmittal to the Chair of the Private Enterprise Board. The Chair and the immediate past Chair of the Private Enterprise Board will make the final selection, but should give strong weight to the recommendations of the outgoing Private Sector Task Force Co-Chair. In an effort to empower as many ALEC private sector members as possible, Private Enterprise State Chairs and members of the Private Enterprise Board will not be selected as Private Sector Task Force Co-Chairs. Private Sector Task Force Co-Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past Chair of the Private Enterprise Board may reappoint a Task Force Private Sector Chair to a second operating cycle term.
- F. Prior to February 1 of each odd-numbered year, the Task Force Private Sector Co-Chair will select and appoint in writing the **private sector members of the Task Force Executive Committee**, who will serve for the current operating cycle. The Task Force Private Sector Co-Chair shall select and appoint in writing the private sector members of any subcommittees.
- G. The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as **advisors** to the Task Force. The National Chair and the Private Enterprise Board Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.



## VII. **REMOVAL AND VACANCIES**

- A. The National Chair may remove any Public Sector **Task Force Co-Chair** from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.
- B. The Public Sector Task Force Co-Chair may remove any legislative member of an **Executive Committee or subcommittee** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.
- C. The Chairman of the Private Enterprise Board may remove **any Private Sector Task Force Co-Chair** from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues..
- D. The Private Sector Task Force Co-Chair may remove any **private sector member of an Executive Committee or subcommittee** from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.
- E. The Public and Private Sector Task Force Co-Chairs may remove an **advisor** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.
- F. Any member or advisor may **resign** from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the



effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.

- G. All **vacancies** for Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, Executive Committee member and subcommittee member shall be filled in the same manner in which selections are made under Section VI. All vacancies to these positions must be filled within thirty days of the effective date of the vacancy.

### **VIII. MEETINGS**

- A. **Task Force meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII (H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. **Executive Committee meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.
- B. **At least forty-five days** prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or **amendment** of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).
- C. **All Task Force meetings are open** to registered attendees and invited guests of ALEC meetings and conferences. Only regular Task Force Members may introduce any resolution, policy statement or model bill. Only Task Force members will be allowed to participate in the Task Force meeting discussions

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and be seated at the table during Task Force meetings, unless otherwise permitted by the Public and Private Sector Task Force Co-Chairs.

- D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the **appointment letter** sent pursuant to Section VI (D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.
- E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of **Roberts Rules of Order**, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.
- F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A **vote** on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. **No proxy, absentee or advance voting is allowed.**
- G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a **Task Force vote by mail or any form of electronic communication** on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and



policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

H. For purposes of Sections VIII(A), (B) and (G), an **emergency situation** can be declared by:

- (1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or
- (2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.

I. Ten Task Force members shall **constitute a quorum** for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

## IX. ***REVIEW AND ADOPTION PROCEDURES***

- A. All Task Force policy statements, model bills or resolutions shall become **ALEC policy** either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, **a formal review by the Board of Directors**. General information about the adoption of a policy position may be announced upon adoption by the Task Force.
- B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be



**formally reviewed** by the Board of Directors before the policy is adopted as official ALEC policy.

- C. A member of the Board of Directors may request a formal review by the Board of Directors. The **request must be in writing** and must state the cause for such action and a copy of the letter requesting the review shall be sent by the National Chairman to the appropriate Task Force Chair. The National Chairman shall schedule a formal review by the Board of Directors no later than the next scheduled Board of Directors meeting.
- D. The review process will **consist of key members of the Task Force**, appointed by the Task Force Chair, providing the support for and opposition to the Task Force position. Position papers may be faxed or otherwise quickly transmitted to the members of the Board of Directors. The following is the review and adoption procedures:
  - **Notification of Committee:** Staff will notify Task Force Chairs and the entire task force when the Board requests to review one of the Task Forces' model bills or resolutions.
  - **Staff Analysis:** Will be prepared in a neutral fashion. The analyses will include:
    - History of Task Force action
    - Previous ALEC official action/resolutions
    - Issue before the board
    - Proponents arguments
    - Opponents arguments
  - **Standardized Review Format:** To ensure fairness, a set procedure will be used as the format to ensure the model bill/resolution has a fair hearing before the Board.
    - Task Force Chair(s) will be invited to attend the Board Review
    - Task Force Chair(s) will decide who will present in support and in opposition for the model bill/resolution before the Board.
    - Twenty minutes that is equally divided will be given for both sides to present before the Board.
    - It is suggested that the Board not take more than twenty minutes to ask questions of the presenters.
    - Presenters will then be excused and the Board will have a suggested twenty more minutes for discussion and vote.



- All votes will be recorded for the official record.
- **Notification of Committee:** The Director of Policy will notify presenters immediately after the vote. If the Board votes to send the model bill/resolution back to the task force, the Board will instruct the Director of Policy or another board member what to communicate.

E. **The Board of Directors can:**

- (1) Vote to affirm the policy or affirm the policy by taking no action, or
- (2) Vote to disapprove the policy, or
- (3) Vote to return the policy to the Task Force for further consideration providing reasons therefore.

F. Task Forces may only undertake educational activities that are based on a policy statement, model bill or resolution that has been adopted as official ALEC policy, unless the Task Force votes to undertake the educational activity, in which case the educational activity is subjected to the same review process outlined in this Section. It is the responsibility of the Task Force Executive Committee to affirm by three-fourths majority vote conducted in accordance with Section VIII that an educational activity conforms to a policy statement, model bill or resolution.

**X. EXCEPTIONS TO THE TASK FORCE OPERATING PROCEDURES.**

Exceptions to these Task Force Operating Procedures must be approved by the Board of Directors.